

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DARIO CAMPOS VILLAR,
Plaintiff,

v.

MICHAEL TIPSOR, et al.,
Defendants.

Case No. [16-cv-00816-MEJ](#)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Plaintiff Dario Campos Villar filed this case on February 18, 2016, seeking damages related to a car accident that occurred on November 10, 2015.¹ He brought claims for “Insurance Bad Faith, Personal Injury, Negle[c]t, Elder Abused, Damages, Intentional Tort, Plot, Discrimination, [and] Intentional Plot.” Compl. at 1, Dkt. No. 1. However, because Plaintiff’s Complaint appeared to only assert claims based on state tort law and named only defendants who are California residents, the Court ordered him to show cause why this case should not be dismissed for lack of subject matter jurisdiction. Dkt. No. 7. Plaintiff did not respond to the Order, but instead filed a First Amended Complaint, once again asserting claims for Insurance Bad Faith, Personal Injury, and Elder Abuse. Dkt. No. 9.

There are two bases for federal subject matter jurisdiction: (1) federal question jurisdiction under 28 U.S.C. § 1331 and (2) diversity jurisdiction under 28 U.S.C. § 1332. Pursuant to the federal question jurisdiction statute, district courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. For

¹ Plaintiff has consented to the jurisdiction of a magistrate judge. Dkt. No. 8. Defendants have not been served, and are therefore not parties to the suit pursuant to 28 U.S.C. § 636(c). *See Levy v. United States*, 2012 WL 1439047, at *1 (N.D. Cal. Apr. 25, 2012); *Third World Media, LLC v. Does 1-1568*, 2011 WL 4344160, at *3 (N.D. Cal. Sept. 15, 2011).

1 diversity jurisdiction under 28 U.S.C. § 1332, each plaintiff must be diverse from each defendant,
2 and the amount in controversy must exceed \$75,000.

3 Plaintiff is a resident of this District, and at least one of the named Defendants is a resident
4 of California. Thus, diversity jurisdiction is lacking. Further, Plaintiff's First Amended
5 Complaint centers on allegations regarding the November 2015 car accident his insurance
6 company's alleged bad faith failure to defend him. Plaintiff's allegations of "breach of contract"
7 and "insurance bad faith" are based in state law, yet there is no diversity jurisdiction; thus, these
8 claims are properly brought in state court. Although Plaintiff uses words such as "Discrimination"
9 and "Violation of my Civil and Legal Righth [sic]" that could be construed as an attempt to raise
10 federal claims, there are no allegations supporting such claims in his original or First Amended
11 Complaint. Accordingly, as the Court lacks jurisdiction, this case is DISMISSED WITHOUT
12 PREJUDICE to filing in state court. Plaintiff's Application to Proceed In Forma Pauperis is
13 DENIED AS MOOT.

14 **IT IS SO ORDERED.**

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16 Dated: March 10, 2016

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19 MARIA-ELENA JAMES
20 United States Magistrate Judge
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CERTIFICATE OF SERVICE

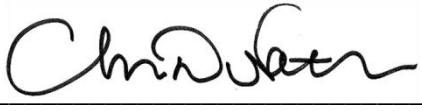
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 10, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Dario Campos Villar
46 Cielito Drive
San Francisco, CA 94134

Dated: March 10, 2016

Richard W. Wieking
Clerk, United States District Court

By: 
Chris Nathan, Deputy Clerk to the
Honorable MARIA-ELENA JAMES

United States District Court
Northern District of California